

Gp/1655

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Docket No. DTR 112

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE TECH CENTER 1600/2900



In re application of: Cool
Serial No.: 09/846,985
Filed: May 01, 2001
Art Unit: 1655
Examiner: Chakrabarti, A.
For: ELECTRONIC HYBRIDIZATION ASSAY AND SEQUENCE ANALYSIS

#3
Election
10/15/01

Box Non-Fee Amendment
Assistant Commissioner for Patents
Washington, DC 20231

OFFICE ACTION RESPONSE

Dear Sir:

In response to the Office Action dated September 4, 2001, kindly consider the following:

CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. 1.8(a))

I hereby certify that, on the date shown below, this correspondence is being:

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☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to, Box Non-Fee Amendment, Assistant Commissioner for Patents, Washington, D.C. 20231.

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☐ transmitted by facsimile to the Patent and Trademark Office.

Date: October 4, 2001

Kenneth J. Cool

Election/Restriction

The examiner required restriction of the invention under 35 U.S.C. § 121 to one of the following Groups:

- I. Claims 1-6 and 23-25, drawn to method of hybridization (class 435, subclass 6).
- II. Claims 7-22 and 26-30, drawn to apparatus (class 128, subclass 922).

Applicant hereby elects Group II, with traverse. In support of the restriction, the examiner stated "the method of hybridization of Group I can be practiced by the apparatus of Group II or can be practiced manually by hand."

The examiner's attention is kindly drawn to claim 1, which recites, "executing an *electronic* hybridization assay". The examiner has not stated in the reasoning for the restriction requirement how an *electronic* hybridization assay is executed by hand. As a result thereof, Applicant submits that a complete, *prima facie* showing of a need for a restriction requirement was not set forth. The restriction requirement should therefore be withdrawn.



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